

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

VAN POUNDS,

Plaintiff,

No. 6:19-cv-00420-MK

v.

ORDER

**CAMERON SMITH; BRIAN LIGHT;
OREGON DEPARTMENT
OF CONSUMER AND BUSINESS
SERVICES**

Defendants.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. ECF No. 62. Judge Kasubhai recommends that Defendants' Motion to Dismiss, ECF No. 50, be granted in part and denied in part, and Plaintiff's Motion for Sanctions, ECF No. 55, should be denied.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Plaintiff has filed Objections, ECF No. 62, Defendants filed a Response, ECF No. 65, and Plaintiff replied, ECF No. 66. The Court has reviewed the record, the F&R, the Objections, Response, and Reply, and finds no error. The F&R, ECF No. 62, is therefore ADOPTED. Defendants' Motion to Dismiss, ECF No. 50, is GRANTED in part and DENIED in part. Plaintiff's Motion for Sanctions, ECF No. 55 is DENIED. Plaintiffs' claims under state "statutory and common law" are DISMISSED according to Rule 12(b)(6) for failure to state a claim. Plaintiff's request for punitive damages to be awarded to the American Civil Liberties Union is DENIED, as is his motion for sanctions. Defendant's Motion is otherwise DENIED.

It is so ORDERED and DATED this 7th day of March 2023.

/s/Ann Aiken
 ANN AIKEN
 United States District Judge